

HOUSE JOURNAL

FORTY-SECOND LEGISLATURE, REGULAR SESSION

PROCEEDINGS

FORTY-SECOND DAY.

(Wednesday, April 15, 1931.)

The House met at 9 o'clock a. m., pursuant to adjournment, and was called to order by Speaker Minor.

The roll was called, and the following members were present:

Adams of Harris.	Farmer.
Adams of Jasper.	Farrar.
Adamson.	Ferguson.
Adkins.	Finn.
Akin.	Fisher.
Albritton.	Forbes.
Alsup.	Ford.
Anderson.	Fuchs.
Baker.	Gilbert.
Barron.	Giles.
Beck.	Goodman.
Bedford.	Graves.
Bond.	Greathouse.
Bounds.	Grogan.
Boyd.	Hanson.
Bradley.	Hardy.
Brice.	Harman.
Brooks.	Harrison
Bryant.	of El Paso.
Burns of Walker.	Harrison
Burns	of Waller.
of McCulloch.	Hatchitt.
Carpenter.	Hefley.
Caven.	Herzik.
Claunch.	Hill.
Coltrin.	Hines.
Coombes.	Holder.
Cox of Lamar.	Holland.
Cox of Limestone.	Holloway.
Cunningham.	Hoskins.
Dale.	Howsley.
Daniel.	Hubbard.
Davis.	Hughes.
DeWolfe.	Jackson.
Dodd.	Johnson
Donnell.	of Dallam.
Dowell.	Johnson
Dunlap.	of Dimmit.
Duvall.	Johnson of Morris.
Dwyer.	Jones of Shelby.
Elliott.	Jones of Atascosa.
Engelhard.	Justiss.

Kayton.	Rountree.
Keller.	Sanders.
Kennedy.	Satterwhite.
Laird.	Savage.
Lasseter.	Scott.
Lee.	Shelton.
Lemens.	Sherrill.
Leonard.	Smith of Bastrop.
Lilley.	Smith of Wood.
Lockhart.	Sparkman.
McCombs.	Stephens.
McDougald.	Stevenson.
McGill.	Steward.
McGregor.	Strong.
Magee.	Sullivant.
Martin.	Tarwater.
Mathis.	Terrell
Mehl.	of Cherokee.
Metcalfe.	Terrell
Moffett.	of Val Verde.
Moore.	Towery.
Munson.	Turner.
Murphy.	Van Zandt.
Nicholson.	Vaughan.
Olsen.	Veatch.
O'Quinn.	Wagstaff.
Patterson.	Walker.
Petsch.	Warwick.
Pope.	Weinert.
Ramsey.	West of Coryell.
Ratliff.	West of Cameron.
Ray.	Westbrook.
Reader.	Wiggs.
Richardson.	Wyatt.
Rogers.	Young.

Absent.

Long.

Absent—Excused.

Morse.

A quorum was announced present.
Prayer was offered by the Rev.
John W. Holt, Chaplain.

BILLS ORDERED PRINTED.

On motion of Mr. Reader, House bill No. 67, reported adversely, with a minority favorable report, was ordered printed.

On motion of Mr. Dodd, House bill

No. 223, reported adversely, with a minority favorable report, was ordered printed.

MOTION TO PRINT.

Mr. Sanders moved that House bill No. 769, reported adversely, with a minority favorable report, be printed, and the motion was lost.

BILLS ORDERED NOT PRINTED.

On motion of Mr. Jones of Atascosa, House bills Nos. 983 and 936 were ordered not printed.

INVITING DR. GEO. W. TRUETT TO ADDRESS THE LEGISLATURE.

Mr. Savage offered the following resolution:

Whereas, Dr. George W. Truett, pastor of the First Baptist Church of Dallas for many years, is now in the city and has accepted an invitation to address the Senate at 9:30 today; now, therefore, be it

Resolved, That the House invite the Senate to meet in joint session with the House at 9:30 today for the purpose of hearing said address.

SAVAGE,
JOHNSON of Dimmit,
LEE.

The resolution was read second time, and was adopted.

In accordance with the above action, the Speaker announced the appointment of the following committee to notify the Senate:

Messrs. Savage, Johnson of Dimmit and Lee.

RELATIVE TO ESTABLISHING CONCESSION IN CAPITOL BUILDING.

Mr. Stevenson offered the following resolution:

H. C. R. No. 51, Relative to establishing a concession in Capitol Building.

Be it resolved by the House of Representatives, the Senate concurring, That the State Board of Control is hereby authorized to permit a confectionery stand to be operated in the Capitol by A. F. Nichols, a blind citizen of this State, said stand to be located at a place in the building to be designated by said Board of Control and to be under the supervision of said Board.

The resolution was read second time.

Mr. Kennedy raised a point of order on further consideration of the

resolution at this time, on the ground that the time for the consideration of resolutions has passed.

The Speaker sustained the point of order.

RELATING TO HOUSE BILL NO. 1019.

On motion of Mr. Keller, the caption of House bill No. 1019 was ordered amended to conform to all changes made in the body of the bill.

BILL RE-REFERRED.

On motion of Mr. Martin, House bill No. 1026 was withdrawn from the Judiciary Committee, and referred to the Committee on Insurance.

ADDRESS BY HON. TOM CONNALLY.

In accordance with a resolution heretofore adopted providing for a joint session of the House and Senate to hear an address by Hon. Tom Connally, the Speaker announced the appointment of the following committee to escort Mr. Connally to the Speaker's stand:

Messrs. Kennedy, of Falls; Ferguson, of Burnet; Jones, of Atascosa; Wyatt, of Comanche; Bedford, of Galveston; Goodman, of Robertson; Hefley, of Milam; Harman, of McLennan; Ray, of Bell; West, of Coryell; Justiss, of Navarro; Westbrook, of McLennan; Ford, of McLennan; Stevenson, of Kimble; and Cox, of Limestone.

At the hour of 10 o'clock a. m., fixed by concurrent action of the two houses, the Honorable Senate, escorted by Senator Carl C. Hardin, President Pro Tempore of the Senate, and Hon. Bob Barker, Secretary of the Senate, appeared at the bar of the House, and being admitted, occupied seats prepared for them along the aisle.

Senator Tom Connally, accompanied by Lieutenant Governor Edgar Witt, Senators Poage, DeBerry, Hopkins, Woodward and Small, committee on the part of the Senate, and Messrs. Kennedy, Ferguson, Jones of Atascosa, Wyatt, Bedford, Goodman, Hefley, Harman, West of Coryell, Ray, Justiss, Westbrook, Stevenson, Ford and Cox of Lamar, committee on the part of the House, appeared at the bar of the House and, being admitted, occupied seats on the Speaker's stand.

Lieutenant Governor Edgar Witt called the Honorable Senate to order.

Hon. Fred H. Minor, Speaker, called the House to order, and stated that the two houses were in joint session for the purpose of hearing an address by Senator Tom Connally.

Speaker Minor presented Representative Stevenson, who in turn introduced Mr. Connally.

Mr. Connally then addressed the joint session and the assemblage.

At the conclusion of the address, the Senate returned to its chamber.

SENATE JOINT RESOLUTION NO. 2 ON SECOND READING.

The Speaker laid before the House, as a special order, on its second reading,

S. J. R. No. 2, Proposing an amendment to Article 3 of the Constitution of the State of Texas, by adding to Section 48 thereof a provision authorizing the levying of taxes for State highway purposes and by adding to Section 49 of said article a provision enabling the Legislature to provide for the extension of the credit of the State for the purpose of the construction of a system of State highways and reimbursing outlays and assuming obligations made by counties, and defining road districts of the State thereof.

The resolution was read second time.

(Pending consideration of the resolution, Mr. Sanders and Mr. McGill occupied the chair temporarily.)

(Speaker in the chair.)

MESSAGE FROM THE SENATE.

Senate Chamber,
Austin, Texas, April 15, 1931.
Hon. Fred H. Minor, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has passed

S. C. R. No. 31, Giving its consent for the House to take up and consider House bill No. 239 on Senate Day calendar.

The Senate has adopted the free conference committee report on Senate bill No. 283 by the following vote: yeas 31, nays 0.

Respectfully,

BOB BARKER,
Secretary of the Senate.

RECESS.

On motion of Mr. Anderson, the House, at 12 o'clock m., took recess to 2 o'clock p. m. today.

AFTERNOON SESSION.

The House met at 2 o'clock p. m., and was called to order by Speaker Minor.

RELATING TO HOUSE BILL NO. 380.

On motion of Mr. Bond (by unanimous consent), the following amendment to House bill No. 380 was adopted:

Amend caption to House bill No. 380 by adding at end of caption as printed the words "and declaring an emergency."

RELATING TO HOUSE BILL NO. 836.

The following amendments to House bill No. 836 were (by unanimous consent) adopted:

Amend House bill No. 836 by adding thereto a new section, to be numbered four (4), reading as follows:

"Sec. 4. The fact that non-residents of the State of Texas are fishing in the waters of the State of Texas without paying a license for the privilege, thereby depleting the supply of fish, and the further fact that the calendar is crowded, creates an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and said rule is hereby suspended, and this act shall take effect and be in force from and after its passage, and it is so enacted."

Amend House bill No. 836 so that the caption will conform to the body of the bill.

SENATE JOINT RESOLUTION NO. 2 ON PASSAGE TO THIRD READING.

The House resumed consideration of pending business, same being Senate joint resolution No. 2, relative to the issuance of bonds for the purpose of constructing highways, the resolution having heretofore been read second time.

Mr. Hubbard moved a call of the House for the purpose of maintaining a quorum until 4 o'clock p. m. today, and the call was duly seconded.

Mr. DeWolfe moved a call of the House for the purpose of maintaining a quorum pending consideration of Senate joint resolution No. 2.

The motion of Mr. DeWolfe was lost.

Question then recurring on the motion by Mr. Hubbard, it prevailed.

The Speaker then directed the Door-keeper to lock the main entrance to the Hall and instructed the Sergeant-at-Arms to lock all other doors leading from the Hall, and stated that no member would be permitted to leave the Hall without written permission from the Speaker.

On motion of Mr. Reader, the Sergeant-at-Arms was instructed to bring in all members within the city who are not ill.

Mr. Anderson offered the following amendment to the resolution:

Amend Senate joint resolution No. 2, page 12, line 39, by adding after the word "applied" the following: "to a sinking fund to be used to refund all outstanding school bonds, issued by the various counties and school districts of the State of Texas, and the Legislature shall provide the method of pro rata refunding of all such school bonds." And amend caption accordingly.

Mr. DeWolfe moved the previous question on the pending amendment and the resolution, and the motion was duly seconded.

Question recurring on the motion for the main question, yeas and nays were demanded.

The main question was ordered by the following vote:

Yeas—71.

Adkins.	Greathouse.
Akin.	Hanson.
Anderson.	Harrison
Baker.	of Waller.
Barron.	Hefley.
Bond.	Herzik.
Bounds.	Hines.
Boyd.	Holloway.
Brooks.	Hoskins.
Burns of Walker.	Jackson.
Burns	Jones of Atascosa.
of McCulloch.	Kayton.
Claunch.	Kennedy.
Coombes.	Lasseter.
Cox of Limestone.	Leonard.
Cunningham.	McGregor.
Dale.	Mathis.
DeWolfe.	Mehl.
Donnell.	Moffett.
Dwyer.	Moore.
Elliott.	Pope.
Engelhard.	Ramsey.
Farmer.	Ray.
Farrar.	Richardson.
Ferguson.	Rogers.
Finn.	Satterwhite.
Fisher.	Scott.
Fuchs.	Shelton.
Giles.	Smith of Wood.
Goodman.	Sparkman.

Stephens.	Veatch.
Stevenson.	Walker.
Tarwater.	Weinert.
Terrell	West of Coryell.
of Cherokee.	Wiggs.
Terrell	Wyatt.
of Val Verde.	Young.
Towery.	

Nays—62.

Adams of Harris.	Johnson of Dimmit.
Adams of Jasper.	Johnson of Morris.
Adamson.	Jones of Shelby.
Albritton.	Justiss.
Alsup.	Laird.
Beck.	Lee.
Bedford.	Lemens.
Bradley.	Lilley.
Brice.	Lockhart.
Bryant.	McDougald.
Carpenter.	McGill.
Caven.	Magee.
Coltrin.	Martin.
Cox of Lamar.	Metcalfe.
Davis.	Munson.
Dodd.	Murphy.
Dowell.	Nicholson.
Duvall.	Olsen.
Forbes.	O'Quinn.
Ford.	Petsch.
Gilbert.	Ratliff.
Grogan.	Reader.
Harrison	Rountree.
of El Paso.	Savage.
Hatchitt.	Smith of Bastrop.
Hill.	Strong.
Holland.	Sullivant.
Howsley.	Turner.
Hubbard.	Van Zandt.
Hughes.	Wagstaff.
Johnson	West of Cameron.
of Dallam.	Westbrook.

Absent.

Daniel.	McCombs.
Dunlap.	Patterson.
Graves.	Sanders.
Hardy.	Sherrill.
Harman.	Steward.
Holder.	Vaughan.
Keller.	Warwick.
Long.	

Absent—Excused.

Morse.

Question recurring on the amendment by Mr. Anderson, it was lost.

Senate joint resolution No. 2 was then passed to third reading by the following vote:

Yeas—80.

Adams of Harris.	Alsup.
Adams of Jasper.	Anderson.
Adamson.	Barron.
Albritton.	Beck.

Bedford.	Kayton.
Boyd.	Keller.
Bradley.	Lee.
Brice.	Lemens.
Burns of Walker.	Lilley.
Carpenter.	Lockhart.
Caven.	McDougald.
Coltrin.	McGill.
Cox of Lamar.	Martin.
Daniel.	Mathis.
Davis.	Mehl.
Dodd.	Metcalfe.
Dowell.	Moore.
Duvall.	Munson.
Dwyer.	Murphy.
Forbes.	Nicholson.
Ford.	Olsen.
Gilbert.	O'Quinn.
Grogan.	Patterson.
Harrison	Petsch.
of El Paso.	Ratliff.
Harrison	Reader.
of Waller.	Rountree.
Hatchitt.	Sanders.
Herzik.	Savage.
Hill.	Shelton.
Hines.	Smith of Bastrop.
Holland.	Sparkman.
Howsley.	Strong.
Hubbard.	Sullivant.
Jackson.	Terrell
Johnson	of Val Verde.
of Dallam.	Turner.
Johnson	Van Zandt.
of Dimmit.	Wagstaff.
Johnson of Morris.	Weinert.
Jones of Shelby.	West of Cameron.
Jones of Atascosa.	Westbrook.
Justiss.	

Nays—59.

Adkins.	Graves.
Akin.	Greathouse.
Baker.	Hanson.
Bond.	Hardy.
Bounds.	Harman.
Brooks.	Hefley.
Bryant.	Holloway.
Burns	Hoskins.
of McCulloch.	Hughes.
Claunch.	Kennedy.
Coombes.	Laird.
Cox of Limestone.	Lasseter.
Cunningham.	Leonard.
Dale.	McGregor.
DeWolfe.	Magee.
Donnell.	Moffett.
Elliott.	Pope.
Engelhard.	Ramsey.
Farmer.	Ray.
Farrar.	Richardson.
Ferguson.	Rogers.
Finn.	Satterwhite.
Fisher.	Scott.
Fuchs.	Smith of Wood.
Giles.	Stephens.
Goodman.	Stevenson.

Terrell	Walker.
of Cherokee.	West of Coryell.
Towery.	Wyatt.
Vaughan.	Young.
Veatch.	

Present—Not Voting.

Tarwater.

Absent.

Dunlap.	Sherrill.
Holder.	Steward.
Long.	Warwick.
McCombs.	Wiggs.

Absent—Excused.

Morse.

Paired.

Mr. Tarwater (present), who would vote "nay," with Mr. Warwick (absent), who would vote "yea."

Reasons for Vote on Senate Joint Resolution No. 2.

The three counties of my district being heavily bonded for road purposes and, conscious of the importance of the question to the taxpayers of my district and the State of Texas, and believing that those taxpayers in counties and road districts where road bonds have been voted should have a chance to say whether or not they desire to have the burden of paying for the highways lifted from their homes, farms and ranches and placed on the traffic, I cast my vote to submit the question of the highway bond amendment, in its present form, to the people of Texas, reserving the right to vote at the polls as my judgment dictates.

RATLIFF.

While I am personally opposed to the submission of Senate joint resolution No. 2, I vote "yea" because I think the people have an inherent right to pass upon great issues of this character at the polls, and I believe that it is our duty to vote for the submission of constitutional amendments where there is a division of sentiment thereon among the people, although we may later, as individuals, oppose the proposition at the polls.

BARRON.

I vote "yea" on the passage of Senate joint resolution No. 2 because I believe that it is a matter for the people of Texas to decide and I am, therefore, willing to submit it to the people, and in doing so retain the right to speak for or against it when it is before the people.

PATTERSON.

MESSAGE FROM THE GOVERNOR.

Mr. Pat Dougherty, secretary to the Governor, appeared at the bar of the House and, being announced, presented the following message from the Governor, which was read to the House, as follows:

Executive Office,
Austin, Texas, April 15, 1931.
To the Members of the Forty-second Legislature:

It has been called to my attention that our present laws with reference to traffic in and possession of narcotics are wholly insufficient to protect our citizens from the terrible effects brought about by the use of narcotics.

I am informed that narcotics, and especially marijuana, have been found within the borders of our State. I understand, further, that the possession of marijuana is not made a violation of the law by our present statutes.

I am further informed that Senate bill No. 171 is now pending in the Legislature, and those competent to pass upon the subject advise me that this or a similar measure is very much needed in order that we may more effectively fight the traffic in narcotics.

Therefore, I respectfully urge that you give to this important matter your earnest consideration, to the end that a helpful measure may become a law at the earliest possible time.

Respectfully submitted,
ROSS STERLING,
Governor.

HOUSE BILL NO. 547, WITH SENATE AMENDMENTS.

Mr. Sanders called up from the Speaker's table, with Senate amendments, for consideration of the amendments,

H. B. No. 547, A bill to be entitled "An Act imposing a privilege tax on persons producing natural gas as defined in this act, including persons importing gasoline who sell the same in intrastate commerce within this State; providing a graduated scale and basis for said tax, and prescribing the manner and time of payment thereof; providing for deduction for evaporation and loss; requiring certain records to be kept, etc., and declaring an emergency."

The Speaker laid the bill before the House, and the Senate amendments were read.

Mr. Sanders moved that the House concur in the Senate amendments.

Mr. McGill moved that the House do not concur in the Senate amendments, and that a conference committee be requested to adjust the differences between the two houses on the bill.

Mr. Duvall raised the following point of order:

(1)

I raise the point of order that under the Constitution of Texas no bill can be amended in its passage through either house in such a manner as to change its original purpose, and the amendment placed on House bill No. 547 by the Senate changes the original purpose of No. 547.

The purpose of House bill No. 547 as stated in the caption of said bill, is to impose a privilege tax on persons importing gasoline who sell the same in intrastate commerce in this State. The purpose of the amendment is to supplement the available school fund and to reduce the burdens of the ad valorem taxation on farms and homes by the levying of a tax on cigarettes.

DUVALL,
YOUNG.

The Speaker overruled the point of order.

Mr. Duvall raised the following point of order:

(2)

I raise the point of order that the Constitution of Texas requires a bill to be read on three several days in each house and free discussion thereon and that the amendment to House bill No. 547 is so foreign to the purpose of the original bill that it is in fact a new bill, which has not been read in the House of Representatives as required by Section 32, Article 3, of the Constitution.

DUVALL,
YOUNG.

The Speaker overruled the point of order.

Mr. Duvall raised the following point of order:

(3)

I raise the point of order that under the Constitution of Texas all revenue-raising measures shall originate in the House of Representatives, and as the Senate amendment by Mr. Berkeley to House bill No. 547 providing a tax on cigarettes amounts to being

an original bill and originated in the Senate and not in the House, the said amendment is out of order.

DUVALL,
YOUNG,
DeWOLFE.

The Speaker overruled the point of order.

Mr. Duvall raised the following point of order:

(4)

I raise the point of order that the Senate amendment to House bill No. 547 violates Section 35, Article 3, of the Constitution, which decrees that no bill shall contain more than one subject, which shall be expressed in its title. The Senate amendment places in House bill No. 547 a subject which is not included in the title of said bill.

DUVALL,
YOUNG,
DeWOLFE.

The Speaker overruled the point of order.

Mr. Duvall raised the following point of order:

(5)

I raise the point of order that this bill is out of order in violation of Article 3, Section 5, of the Constitution of the State of Texas. This section provides that "no bill shall contain more than one subject." This bill is attempting to place a tax on natural gas and in the same bill attempts to place a tax on cigarettes. This is an effort to legislate on two distinct subjects in one bill and is, therefore, out of order.

DUVALL,
YOUNG,
De WOLFE.

The Speaker overruled the point of order.

Mr. Duvall raised the following point of order:

(6)

I raise the point of order to this bill that the House tabled a motion to print on a minority report and, therefore, the bill on the same subject cannot be considered unless the House reconsiders the vote by which the motion to table prevailed. A motion to table that has been adopted has the same effect as a motion to reconsider and table.

DUVALL,
YOUNG,
DeWOLFE.

The Speaker overruled the point of order.

Mr. Duvall raised the following point of order:

(7)

I raise the point of order that Senate amendment by Mr. Berkeley to House bill No. 547 is out of order because, as shown by the Journal of this House for April 6, 1931, page ..., this House by vote of 87 to 21 cut out all reference to tobacco and cigarettes from the Holder resolution, thus eliminating this same subject-matter, to-wit, cigarettes, from the consideration of the special committee authorized by said resolution, this being an affirmative vote by this House defeating and eliminating the same subject-matter as contained in the above amendment from a tax bill or bills authorized to be reported back to this House by the special committee created by such resolution, and under Article 34, Section 3, of the Constitution, the above amendment providing a tax upon the same substance, or subject-matter, i. e., cigarettes, cannot now be constitutionally enacted into law at this session of the Legislature by either the House or Senate.

DUVALL,
YOUNG,
DeWOLFE.

The Speaker overruled the point of order.

Mr. Duvall raised the following point of order:

(8)

I raise the point of order that Senate amendment by Mr. Berkeley to House bill No. 547 is out of order because, as shown by House Journal, page 988, this House defeated by refusal to print on a minority report House bill No. 608, involving same substance and subject-matter by a vote of 78 to 41, and under Section 34 of Article 3, of the Constitution, the above amendment cannot now be enacted into law by either the Senate or House at this session of the Legislature.

DUVALL,
YOUNG,
DeWOLFE.

The Speaker overruled the point of order.

Mr. Duvall raised the following point of order:

(9)

I raise the point of order that Senate amendment by Mr. Berkeley to House bill No. 547 is out of order

because, as shown by House Journal, page 1100, this House defeated by refusal to print on minority report House bill No. 566 involving the same substance and subject-matter by a vote of 87 to 40, and under Section 34 or Article 3, of the Constitution, the above amendment cannot now be enacted into law by either the Senate or House at this session of the Legislature.

DUVALL,
YOUNG,
DeWOLFE.

The Speaker overruled the point of order.

Mr. Duvall raised the following point of order:

(10)

I raise the point of order that this bill is out of order because one of the amendments that places a tax on cigarettes is changing the original purpose of the bill in violation of Article 3, Section 30, of the Constitution of the State of Texas, which provides "no law shall be passed except by bill, and no bill shall be so amended in its passage through either house as to change its original purpose."

DUVALL,
YOUNG,
DeWOLFE.

The Speaker overruled the point of order.

Mr. Duvall raised the following point of order:

(11)

I raise the point of order to this bill that it is out of order in violation of Article 3, Section 33; Section 33 provides that "all bills for raising revenue shall originate in the House of Representatives." This tax on cigarettes did not originate in the House of Representatives and is, therefore, out of order.

DUVALL,
YOUNG,
DeWOLFE.

The Speaker overruled the point of order.

Mr. Duvall raised the following point of order:

(12)

I raise the point of order that the amendment to House bill No. 547 is out of order in violation of Article 3, Section 37, of the Constitution of the State of Texas; this section provides: "No bill shall be considered unless it has been first referred to a committee and reported thereon; and no bill shall be passed which has not been

presented and referred to and reported from a committee at least three days before the final adjournment of the Legislature." The Senate amendment providing for a tax on cigarettes has not been before a committee in the House of Representatives or the Senate and passed out in such a manner that the House of Representatives can now consider it.

DUVALL,
YOUNG,
DeWOLFE.

The Speaker overruled the point of order.

Mr. Duvall raised the following point of order:

(13)

The Senate had substituted a bill for House bill No. 547, and such substitute was the only bill that was before and passed the Senate.

The amendment, by adding a provision after Section 9, and before the emergency clause, by Mr. Berkeley, was to House bill No. 547 and not to Senate committee substitute for House bill No. 547; therefore, the only amendment now before the House is Senate committee substitute for House bill No. 547, with the amendments thereto by Mr. Small, which amends Section 10 and the caption to conform; the amendment by Mr. Berkeley, supra, providing for a cigarette tax, being House bill No. 547, which did not pass the Senate and which is not now before this House.

DUVALL,
YOUNG,
DeWOLFE.

The Speaker overruled the point of order.

The Speaker stated "that as reasons for overruling the various points of order, he had followed the opinion of the Attorney General's Department addressed to Hon. Phil L. Sanders, under date of April 14, 1931, as well as the opinion of Hon. Claude Pollard, rendered while he was Attorney General, found in the Senate Journal, First Called Session of the Forty-first Legislature, at page 65, and the authorities therein cited."

The opinion first referred to is as follows:

Office of Attorney General,
Austin, Texas, April 14, 1931.
Hon. Phil. L. Sanders, Chairman,
Committee on Appropriations,
House of Representatives, Capitol.
Dear Sir: This will acknowledge receipt of your communication of the

14th inst. inquiring as to the constitutionality of House bill No. 547 as amended by the Senate. The questions and facts upon which you base the inquiry are as follows:

"The House of Representatives passed House bill No. 547 levying an occupation tax on persons, firms and corporations producing natural gas. In the Senate an amendment was added levying an occupation tax on the sale of cigarettes. The bill has come back to the House for the consideration of the Senate amendment. Prior to the time that the Senate amended the bill by adding an amendment levying an occupation tax on the sale of cigarettes, the House had refused to print on minority report House bills Nos. 566 and 608, each of which, as originally introduced, sought to levy a tax on the sale of cigars and cigarettes. Under the House Rules, a motion to print on minority report is not debatable, but the mover may be allowed three minutes in which to state the nature and purpose of the measure, but may not discuss the merits of the bill.

"Under the foregoing statement, I desire to be advised upon the following points:

"1. Whether, under Section 33, Article 3, of the State Constitution, which provides 'all bills for raising revenue shall originate in the House of Representatives, but the Senate may amend or reject them as other bills,' the Senate can amend a bill levying an occupation tax on persons producing natural gas, originating in the House, by providing for the levying of an occupation tax on the sale of cigarettes.

"2. Whether House bill No. 547, as amended in the Senate, violates Section 35, Article 3, of the State Constitution, which provides that no bill, except general appropriation bills, shall contain more than one subject, which shall be expressed in its title.

"3. Whether, under Section 34 of Article 3, of the State Constitution, which reads, 'after a bill has been considered and defeated by either house of the Legislature, no bill containing the same substance shall be passed into a law during the same session,' the two bills introduced in the House proposing an occupation tax on the sale of cigars and cigarettes and which the House refused to print on minority report, were 'considered' and 'defeated' within the

meaning of Section 34, Article 3, of the State Constitution, so as to prevent the consideration by the House of the Senate amendment to House bill No. 547 above herein referred to."

In answering the first two questions, as set forth in your inquiry, I wish to advise that practically the identical questions have heretofore been submitted to this department and an opinion rendered thereon by the Hon. Claude Pollard, former Attorney General, the facts surrounding such request for the opinion being that the House passed a bill for the purpose of raising revenue by levying an automobile license fee on automobiles, which went to the Senate and was amended by adding thereto a provision levying an occupation tax on the sale of gasoline. I am attaching hereto a copy of this opinion for your information, and the same will also be found printed in the Senate Journal of the Forty-first Legislature, First Called Session, at page 65.

It will be noted in this opinion that both of these questions, as propounded by you, were fully considered by Mr. Pollard and, after a careful consideration of the authorities, he held that the provisions of the Constitution were not violated and such action on the part of the Legislature was within the scope of its power. It is my opinion that the opinion of Mr. Pollard covers your first two questions fully, and I concur in his holding in that respect.

Therefore, it is my conclusion, and you are so advised, in answer to your first question, that the Senate could amend the bill in question by providing for the levying of an occupation tax on the sale of cigarettes.

In answer to your second question, you are also advised that the House bill, as amended by the Senate, does not violate Section 35, Article 3, of the State Constitution, which provides that no bill except general appropriation bills shall contain more than one subject, which shall be expressed in its title.

In answering your third question, I wish to call your attention to the case of King vs. Terrell, reported in 218 S. W. at page 42, the opinion being written by Judge McCartney of the Court of Civil Appeals at Austin, in which a writ of error was denied by the Supreme Court. The facts in this case were that a bill was submitted to the House raising the salaries of judges, and was defeated.

After such action by the House, and during the same session of the Legislature, a similar bill was passed by the Senate. The only material difference in the two bills was that the one passed in the Senate allowed \$400 more per annum as salary than the one defeated in the House. It was urged that the bill passed by the Senate, which was also approved by the House, was unconstitutional on the ground that it violated Section 34 of Article 3 of the State Constitution, which provides that after a bill has been considered and defeated by either house of the Legislature no bill containing the same substance shall be passed into a law during the same session.

It was contended on the part of appellant that the two bills were of the same substance, while, on the other hand, it was contended by the appellee, who was represented by the then Attorney General, Judge C. M. Cureton, that the two bills were not of the same substance and did not violate the provisions of the above article of the Constitution. The court held, under the above facts, that the action of the Legislature in enacting this law did not violate this provision of the Constitution and, in the course of the court's opinion, the following language was used:

"If there had been only a difference of one or ten dollars, or other unsubstantial amount, we think the two bills would have been of the same substance. Without stating what the members of this court think about the alleged difference of four hundred dollars, it may be conceded, for the purpose of this opinion, that this raise is a question about which there might arise a genuine cleavage of opinion in the minds of reasonable men; but if this difference of four hundred dollars is such as to cause a reasonable divergence of view, then clearly, if the members of the Legislature thought the two bills were not of the same substance, the courts ought not to interfere even if, in any event, they have jurisdiction to do so.

"Appellee argues that the Legislature has found, as a fact, that the two bills were not the same in substance and, as above indicated, we are of the opinion that the Legislature was justified in so finding; but if it should be conceded that the petition shows two bills of the same substance, then we think, when it is conceded that the Legislature was lawfully in

session and has the inherent right to legislate upon the question of fixing the salaries of judges, the court should and will presume that the Legislature, having this general power to enact the law, had not previously incapacitated itself from so doing and they will not suffer this presumption to be rebutted."

As will be noted from your letter, it appears that House bills Nos. 566 and 608, as originally introduced and as finally acted upon, provided an occupation tax on the sale of cigars in addition to the sale of cigarettes. There is also a variance between these bills and the amendment to House bill No. 547 passed by the Senate levying an occupation tax on the sale of cigarettes as to the methods of computing such tax. It can readily be seen that minds might differ as to the question of whether or not House bills Nos. 566 and 608 and the amendment finally passed by the Senate are different in substance. It is fair to presume that the Senate is conversant with Section 34 of Article 3 of the Constitution, which provides that, after a bill has been considered and defeated by either house of the Legislature, no bill containing the same substance shall be passed into a law during the same session. It is also reasonable to presume that they considered the bills above mentioned and arrived at the conclusion that the bill finally passed by them as the amendment to House bill No. 547 did differ in substance from House bills Nos. 566 and 608 which were acted upon in the House.

In view of what has heretofore been said, it is my opinion that, if the House should concur in the amendment to House bill No. 547 as passed by the Senate, such action would be valid and would not, in no wise, violate Section 34 of Article 3 of the Constitution, above set forth, and you are accordingly so advised.

Trusting that I have answered your question fully, I am,

Yours very truly,

JAMES V. ALLRED,
Attorney General.

Mr. Scott moved the previous question on the pending motion, and the main question was ordered.

Mr. Holder moved that the call of the House be extended pending consideration of House bill No. 547, and the motion was lost.

(Pending consideration of the mo-

tion, Mr. Keller occupied the chair temporarily.)

Question first recurring on the motion by Mr. McGill, yeas and nays were demanded.

The roll of the House was called, and the vote announced as follows: Yeas 62, nays 61.

Mr. Holder called for a verification of the vote.

The roll of the yeas and nays was called, and the vote announced as follows:

Yeas—62.

Adamson.	Hoskins.
Akin.	Hughes.
Albritton.	Jackson.
Anderson.	Johnson of Morris.
Baker.	Jones of Shelby.
Barron.	Justiss.
Beck.	Kayton.
Bounds.	Kennedy.
Brice.	Lasseter.
Carpenter.	Leonard.
Coombes.	Lockhart.
Daniel.	McCombs.
Davis.	McDougald.
DeWolfe.	McGill.
Duvall.	Metcalf.
Dwyer.	Moffett.
Elliott.	Patterson.
Engelhard.	Pope.
Ferguson.	Ratliff.
Finn.	Ray.
Forbes.	Reader.
Fuchs.	Savage.
Goodman.	Sherrill.
Greathouse.	Stephens.
Hanson.	Stevenson.
Harrison	Terrell
of El Paso.	of Val Verde.
Harrison	Wagstaff.
of Waller.	West of Coryell.
Hefley.	Westbrook.
Herzik.	Wyatt.
Holland.	Young.
Holloway.	

Nays—61.

Mr. Speaker.	Farmer.
Adams of Harris.	Farrar.
Adams of Jasper.	Fisher.
Alsup.	Ford.
Bedford.	Gilbert.
Boyd.	Giles.
Brooks.	Graves.
Burns of Walker.	Grogan.
Caven.	Hatchitt.
Claunch.	Hill.
Cox of Lamar.	Holder.
Cox of Limestone.	Howsley.
Cunningham.	Johnson
Dale.	of Dallam.
Dodd.	Johnson
Donnell.	of Dimmit.
Dowell.	Jones of Atascosa.
Dunlap.	Lee.

Lemens.	Smith of Bastrop.
Lilley.	Smith of Wood.
Magee.	Sparkman.
Mathis.	Strong.
Moore.	Tarwater.
Munson.	Terrell
Murphy.	of Cherokee.
Nicholson.	Towery.
O'Quinn.	Turner.
Richardson.	Vaughan.
Rogers.	Veatch.
Rountree.	Walker.
Sanders.	West of Cameron.
Satterwhite.	Wiggs.

Absent.

Adkins.	McGregor.
Bond.	Martin.
Bradley.	Mehl.
Bryant.	Olsen.
Burns	Petsch.
of McCulloch.	Ramsey.
Coltrin.	Scott.
Hardy.	Shelton.
Harman.	Steward.
Hines.	Sullivant.
Hubbard.	Van Zandt.
Keller.	Warwick.
Laird.	Weinert.
Long.	

Absent—Excused.

Morse.

Paired.

Mr. Petsch (present), who would vote "nay," with Mr. Keller (absent), who would vote "yea."

Reason for Vote.

I vote "yea" on the motion to refuse to concur in Senate amendments to House bill No. 547 because I think that the tax on natural gas should remain at the House figure, and that the tobacco tax amendment is not germane and violates the constitutional inhibition which prevents a tax measure from originating in the Senate.

DANIEL.

Mr. McDougald moved to reconsider the vote by which the motion by Mr. McGill prevailed, and to table the motion to reconsider.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—69.

Adamson.	Beck.
Akin.	Bounds.
Albritton.	Boyd.
Anderson.	Brice.
Baker.	Coltrin.
Barron.	Coombes.

Daniel.	Kennedy.
Davis.	Lasseter.
DeWolfe.	Lockhart.
Duvall.	McCombs.
Dwyer.	McDougald.
Elliott.	McGill.
Engelhard.	McGregor.
Ferguson.	Martin.
Finn.	Metcalfe.
Fisher.	Moffett.
Forbes.	Olsen.
Goodman.	O'Quinn.
Greathouse.	Patterson.
Hanson.	Pope.
Harrison	Ratliff.
of El Paso.	Ray.
Harrison	Reader.
of Waller.	Richardson.
Hefley.	Savage.
Herzik.	Sherrill.
Hines.	Sparkman.
Holland.	Stephens.
Holloway.	Stevenson.
Hoskins.	Veatch.
Hughes.	Wagstaff.
Jackson.	Weinert.
Jones of Shelby.	West of Coryell.
Justiss.	Westbrook.
Kayton.	Young.
Keller.	

Nays—59.

Adams of Harris.	Laird.
Adams of Jasper.	Lee.
Alsup.	Lemens.
Bedford.	Leonard.
Brooks.	Lilley.
Burns of Walker.	Magee.
Caven.	Mathis.
Claunch.	Moore.
Cox of Lamar.	Munson.
Dale.	Murphy.
Dodd.	Nicholson.
Donnell.	Ramsey.
Dowell.	Rogers.
Farmer.	Rountree.
Farrar.	Sanders.
Ford.	Satterwhite.
Fuchs.	Smith of Bastrop.
Gilbert.	Smith of Wood.
Giles.	Strong.
Graves.	Sullivant.
Grogan.	Tarwater.
Hatchitt.	Terrell
Hill.	of Cherokee.
Holder.	Towery.
Howsley.	Turner.
Johnson	Van Zandt.
of Dallam.	Vaughan.
Johnson	Walker.
of Dimmit.	West of Cameron.
Johnson of Morris.	Wiggs.
Jones of Atascosa.	Wyatt.

Absent.

Adkins.	Bryant.
Bond.	Burns
Bradley.	of McCulloch.

Carpenter.	Mehl.
Cox of Limestone.	Petsch.
Cunningham.	Scott.
Dunlap.	Shelton.
Hardy.	Steward.
Harman.	Terrell
Hubbard.	of Val Verde.
Long.	Warwick.

Absent—Excused.

Morse.

BILL SIGNED BY THE
SPEAKER.

The Speaker signed, in the presence of the House, after giving due notice thereof, and its caption had been read, the following enrolled bill:

S. B. No. 283, "An Act to authorize the Board of Regents of the University of Texas to invest the University permanent fund, to borrow money for named purposes in specified amounts and to issue bonds therefor, to sell designated securities belonging to the permanent University fund, and to re-invest same, and declaring an emergency."

SPECIAL ORDER SET.

Mr. Johnson of Dimmit moved that House bill No. 331 be set as a special order for 10 o'clock a. m., next Friday.

The motion prevailed.

SENATE BILL NO. 269 ON PAS-
SAGE TO THIRD READING.

The Speaker laid before the House, as postponed business, on its third reading and passage,

S. B. No. 269, A bill to be entitled "An Act amending Article 522, Revised Civil Statutes of the State of Texas for 1925, providing for a landlord's lien upon the properties and crops of a tenant for rents and advances; also upon the crops of the tenant where the landlord furnishes everything and the tenant furnishes the labor to make the crop."

The bill having heretofore been read second time, with amendment by Mr. McGregor pending.

Question recurring on the amendment by Mr. McGregor, it was adopted.

Mr. Lockhart offered the following amendment to the bill:

Amend Senate bill No. 269 by inserting the words "or caused to be furnished" after the word "furnished" wherever such word appears in the bill.

The amendment was adopted.

Senate bill No. 269 was then passed to third reading.

COMMITTEE IN REGARD TO INVESTIGATING METHODS OF RAISING REVENUE.

The Speaker announced the appointment of the following committee in compliance with resolution heretofore adopted, offered by Mr. Holder, providing for a committee to study methods of raising revenue:

Messrs. Holder, Anderson, Terrell of Val Verde, Mrs. Moore and Mr. Petsch.

HOUSE BILL ON FIRST READING.

The following House bill introduced today (by unanimous consent), was laid before the House, read first time, and referred to the appropriate committee, as follows:

By Mr. Terrell of Val Verde:

H. B. No. 1028, A bill to be entitled "An Act authorizing the commissioners courts of counties having not less than 3690 and not more than 4000 inhabitants, according to the last available Federal census, to appropriate and expend a sum not exceeding \$7500 to be used over a period of five years for exterminating predatory animals, and declaring an emergency."

Referred to Committee on State Affairs.

RECESS.

On motion of Mr. Moffett, the House at 5:30 o'clock p. m., took recess to 9 o'clock a. m. tomorrow.

APPENDIX.

STANDING COMMITTEE REPORTS.

The following committees have filed favorable reports on bills, as follows:

Appropriations: Senate bills Nos. 246 and 17, House bill No. 508.

Education: House bill No. 982, Senate bill No. 570.

Revenue and Taxation: House bill No. 888.

Game and Fisheries: Senate bill No. 125, House bills Nos. 1019 and 1022.

Counties: House bills Nos. 936, 983 and 837.

The following committees have filed adverse reports on bills, as follows:

Appropriations: House bill No. 577.

Counties: House bill No. 858.

REPORT OF THE COMMITTEE ON ENGROSSED BILLS.

Committee Room,
Austin, Texas, April 14, 1931.

Hon. Fred H. Minor, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 312, A bill to be entitled "An Act requiring the commissioners court of all counties and the governing bodies of all cities and towns to advertise for bids on projects respecting public improvements where the contract or agreement involves an expenditure of money in excess of \$1000, and providing for advertisement and notice thereof; providing that the contract shall be let to the lowest bidder, and requiring bond; permitting certain exceptions, and providing that contracts made without compliance therewith shall be void, and declaring an emergency."

Have carefully compared same and find it correctly engrossed.

RICHARDSON, Vice-Chairman.

FORTY-SECOND DAY.

(Continued.)

(Thursday, April 16, 1931.)

The House met at 9 o'clock a. m., and was called to order by Speaker Minor.

SENATE BILL NO. 114 ON THIRD READING.

The Speaker laid before the House, on its third reading and final passage,

S. B. No. 114, A bill to be entitled "An Act requiring all public cotton classers to have a Federal cotton classers' license, etc., and declaring an emergency."

The bill was read third time.

Mr. Terrell of Cherokee offered the following amendment to the bill:

Amend Senate bill No. 114 by striking out Section 2 and insert in lieu thereof the following:

"Sec. 2. Authority and Qualifications.—The Commissioner of Agriculture of this State is hereby authorized to appoint three competent cotton classers as a board of examiners to examine all applicants for license to classify or grade cotton in accordance with the official cotton standards of the United States Cotton Standards Act.

"The Commissioner of Agriculture of this State shall fix a fee not to exceed \$10 to be charged each ap-